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10 **UNITED STATES DISTRICT COURT**  
11 **EASTERN DISTRICT OF WASHINGTON**  
12 **AT SPOKANE**

13 UNITED STATES OF AMERICA,

14 No. 2:20-CR-153-RMP

15 *Plaintiff,*

16  
17 **DEFENDANT'S SENTENCING**  
18 **MEMORANDUM**

19 v.

20 MADDESYN DANIELLE GEORGE,

21 *Defendant.*

22  
23 The defense respectfully requests that the Court sentence Maddesyn George  
24 to 5 years in prison, which is the minimum sentence allowed by law for the drug  
25 offense to which she pleaded guilty. The crime of manslaughter has no mandatory  
26 minimum. We will address the manslaughter charge first and the drug offense  
27 second.

28  
29 **1. Manslaughter**

30 Maddesyn George pleaded guilty to voluntary manslaughter. The defense is  
31 asking the court to sentence her to 5 years in prison. The sentence should be  
32 mitigated below the advisory guideline range because this case is distinguishable  
33 from nearly all other similar cases. The man Maddesyn George shot had raped her  
34 the night prior, and he was confronting her again.

1 Rape is universally recognized as one of the most horrific crimes. “In  
2 addition to being a highly offensive invasion of another's bodily integrity, rape  
3 violates our most treasured notions of bodily autonomy.” *Kaur v. Wilkinson*, 986  
4 F.3d 1216, 1222–23 (9th Cir. 2021). As Justice Powell explained:

5 [Rape] is widely viewed as the most atrocious of intrusions upon the privacy  
6 and dignity of the victim; never is the crime committed accidentally; rarely  
7 can it be said to be unpremeditated; often the victim suffers serious physical  
8 injury; the psychological impact can often be as great as the physical  
9 consequences; in a real sense, the threat of both types of injury is always  
present.

10 *Furman v. Georgia*, 408 U.S. 238, 458, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972)  
11 (Powell, J., dissenting). The Ninth Circuit has also commented on the terrifying  
12 psychological consequences of rape:

13 [A]rticles have described additional long-term psychological effects of  
14 rape, including chronic anxiety, nightmares, catastrophic fantasies, feelings  
15 of alienation and isolation, sexual dysfunctions, physical distress, mistrust of  
16 others, phobias, depression, hostility, and suicidal thoughts. American  
17 Medical Association's Council on Scientific Affairs, “Violence against  
18 women: relevance for medical practitioners,” *J. Amer. Med. Ass'n.*, June 17,  
19 1992. The effects of rape appear to resemble the effects of torture. A recent  
20 article compared the psychological sequelae of rape survivors to the  
21 psychological distress endured by survivors of abuse constituting torture  
22 under international law, and concluded that “the suffering of rape survivors is  
23 strikingly similar in intensity and duration to the suffering endured by torture  
24 survivors.” Note, “Torture by Means of Rape,” 84 *Georgetown L.J.* 1913,  
25 1931 (1996).

26 *Lopez-Galarza v. I.N.S.*, 99 F.3d 954, 962–63 (9th Cir. 1996). It was under this  
27 trauma and psychological distress that Maddesyn George acted when confronted by  
28 Kristopher Graber.

1           Against this pernicious crime of rape, Indian nations are made powerless to  
 2 protect their members under the law. The Tribes have no ability to prosecute non-  
 3 Tribal members for sexual violence. See *Oliphant v. Suquamish Indian Tribe*, 435  
 4 U.S. 191, 195, 98 S. Ct. 1011, 1014, 55 L. Ed. 2d 209 (1978). Rather the federal  
 5 government is responsible in our legal system for protecting members of Indian  
 6 nations. See generally, *United States v. Sandoval*, 231 U.S. 28, 46, 34 S. Ct. 1, 5, 58  
 7 L. Ed. 107 (1913); *United States v. Krause*, 92 F. Supp. 756, 760 (W.D. La. 1950);  
 8 *Sioux Nation of Indians v. United States*, 601 F.2d 1157, 1177 (Ct. Cl.  
 9 1979), *aff'd*, 448 U.S. 371, 100 S. Ct. 2716, 65 L. Ed. 2d 844 (1980) ("inherent duty  
 10 to protect"). The federal government often fails to protect indigenous women by  
 11 declining prosecution on serious offenses. The declination rates are 50 percent on  
 12 murder and manslaughter, 76 percent on adult sex crimes, including rape.  
 13 *Examining Federal Declinations to Prosecute Crimes in Indian Country*, 110th  
 14 Cong. 22 (2008), [www.govinfo.gov/content/pkg/CHRG-110shrg46198/html/CHRG-110shrg46198.htm](http://www.govinfo.gov/content/pkg/CHRG-110shrg46198/html/CHRG-110shrg46198.htm) at p. 1. The violence against  
 15 indigenous women is based on stereotypes and rooted in colonialism according to  
 16 expert Valaura Imus-Nahsonhoya.  
 17

18  
 19           Why seek Natives? We're associated with fetishes, such as long hair, exotic  
 20 looks that sex patrons perceive as Asian or Hispanic, Imus-Nahsonhoya  
 21 says." We could look like anything." Enslaving Native women for sex or  
 22 other purposes isn't new, either: Imus-Nahsonhoya displayed books and  
 23 illustrations showing that the practice has been occurring for centuries.  
 24 \* \* \*

25           The high rates of poverty and hardship in tribal communities; historical  
 26 trauma and culture loss; homelessness and runaway youth; high rates of  
 27 involvement with child welfare systems, including entry into the foster care  
 28 system; exposure to violence in the home or community; drug and alcohol  
 abuse; and low levels of law enforcement all add up to a community rich in  
 targets for traffickers.

1 *Why Traffickers Go After Native American Women*, NAVAJO-HOPI OBSERVER,  
 2 quoting Valaura Imus-Nahsonhoya from *Hopi Times* interview. Available at  
 3 [www.freedomunited.org/news/why-traffickers-go-after-native-american-women/](http://www.freedomunited.org/news/why-traffickers-go-after-native-american-women/)

4 Against this backdrop, it is important to look at how the investigation of  
 5 Maddesyn George's complaint of rape was handled by the authorities. After  
 6 Maddesyn George explained that she was raped by Kristopher Graber, no further  
 7 steps were taken to investigate this. It is only by accident that we have a  
 8 photograph of the handcuffs bolted to the wall by a bed in Mr. Graber's home.



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 17 The police inadvertently captured the handcuffs in a long shot of the defendant's  
 18 house. No explanation was given to the police as to these handcuffs, and no  
 19 questions about the handcuffs were posed to any witness in the 30,000 pages of  
 20 discovery in this case. No DNA was taken. No women were asked about prior  
 21 sexual assaults. The deceased had a room set up in his home to facilitate rape, and  
 22 the government has tried to pretend like it never existed.<sup>1</sup> No explanation has been  
 23 given for the government's obstinacy on this. "The United States Attorney is the  
 24 representative not of an ordinary party to a controversy, but of a sovereignty whose

25  
 26  
 27 <sup>1</sup> Additionally, there was evidence that Mr. Graber's friends had tried to remove evidence from this room. See Exhibit  
 1

1 *obligation to govern impartially...*" *Berger v. United States*, 295 U.S. 78, 88, 55 S.  
 2 Ct. 629, 633, 79 L. Ed. 1314 (1935) (emphasis added). Is it possible that Maddesyn  
 3 George is both a flawed individual AND a victim of rape? The government has  
 4 never made allowance for such a possibility. The defense would contend that both  
 5 are true. But no amount of drug abuse or thievery from Walmart or juvenile court  
 6 convictions forfeit a woman's right to bodily autonomy. Not to Kristopher Graber  
 7 and not to Isaiah Holloway. Such a perspective would disqualify from coming  
 8 forward a huge swath of women who are actually the most susceptible to being  
 9 preyed upon in the first place.

10 We would ask the Court to find what the government has never been willing  
 11 to admit: that a preponderance of the evidence exists that Maddesyn George was  
 12 raped by Kristopher Graber the night prior to the shooting. This fact doesn't make  
 13 the loss to Mr. Graber's family any less real, and the subject of the rape will be hard  
 14 for the family to hear, but in light of the evidence, it is the only fair conclusion.  
 15 Maddesyn George made a credible contemporaneous complaint to the police,  
 16 complained of the sexual assault to Shannon Edwards prior to the shooting, and  
 17 Maddesyn George's story is corroborated by physical evidence within Mr. Graber's  
 18 home.

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20 **2. Drug Offense**

21 Maddesyn George was found in possession of 47 grams of the drug  
 22 methamphetamine. The circumstances of how she came to be in possession of such  
 23 a large amount are understood by the court. She did not take possession of the drug  
 24 in the regular course of commerce. Nor is it alleged that her involvement with such  
 25 an amount was at all typical. July 12<sup>th</sup>, 2020 was not a representative snapshot of  
 26 her day-to-day life. The drugs were possessed for a relatively short period of time.  
 27

1 While the drugs were shared with others, there is no evidence that she attempted or  
 2 planned to sell the drugs. Maddesyn George's involvement with drugs was ancillary  
 3 to Kristopher Graber's involvement in drugs. It is appropriate under the law to  
 4 consider the role each person played. See e.g. *United States v. Valdez-Gonzalez*,  
 5 957 F.2d 643, 649 (9th Cir. 1992) (upholding a reduced sentence for an individual  
 6 who was merely a courier). Enforcement of drug laws in the Omak area has not  
 7 been uniform. It is important to note that Kristopher Graber was caught in October  
 8 2019 with three times the amount of drugs Maddesyn possessed (and a firearm),  
 9 and he was not prosecuted federally. See Exhibit 2 which consist of the probable  
 10 cause affidavit from his offense in Okanogan County Superior Court.

11 Admittedly, “[i]n our criminal justice system, the Government retains ‘broad  
 12 discretion’ as to whom to prosecute.” *Wayte v. United States*, 470 U.S. 598, 105  
 13 S.Ct. 1524, 84 L.Ed.2d 547 (1985) (citing *United States v. Goodwin*, 457 U.S. 368,  
 14 380 n. 11, 102 S.Ct. 2485, 2492 n. 11, 73 L.Ed.2d 74 (1982)),

15 As to the restitution owed to Mr. Graber's family, the defense does not have  
 16 any objection. The defense would respectfully request that the court recommend to  
 17 the Bureau of Prison a drug treatment program during her incarceration.  
 18 Additionally, the defense agrees with the government that substantial probation is  
 19 appropriate to facilitate Maddesyn George's reentry into society.

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DATED this 13<sup>th</sup> day of October, 2021

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s/ Stephen T. Graham

Stephen T. Graham, WSBA #25403  
 Attorney for the Defendant  
 Law Office of Steve Graham

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6 CERTIFICATE OF SERVICE

7 I hereby certify that on October 13<sup>th</sup>, 2021, I electronically filed the  
8 Defendant's Sentencing Memorandum with the Clerk of the Court using CM/ECF  
9 System which will send notification of such filing to the following: Alison  
10 Gregoire, Assistant United States Attorney, and Richard Barker, Assistant United  
11 States Attorney.

12  
13 s/ Stephen T. Graham  
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